

Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605. (This is a GIL).

August 17, 2004

Dear Xxxxx:

This letter is in response to your letter received by our office on February 17, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Please find attached the receipt for a camera I purchased in Chicago on 8th Oct 2003. I am an Australian citizen and reside in Australia, I was in the USA for a few days on business and was told by the camera store that it is possible for non US citizens to claim back the sales tax component of these purchases at Chicago airport. At the airport a US Customs officer gave me this address for the claim.

Accordingly this is a claim for the refund of US\$26.25 tax paid by me at the point of sale. Please make this amount payable to me at the address below.

DEPARTMENT'S RESPONSE

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. Mere possession is considered a use. Consequently, if the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer.

Please note that a sale is taxable, even though a purchaser that receives physical possession of the property in this State immediately transports the property out of this State for use outside the State. See 86 Ill. Adm. Code 130.605(a)(2). The State of Illinois has no specific exemption for purchases by foreign or domestic travelers where the property is delivered and used in Illinois.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk